

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MELISSA DAVIS,

Plaintiff,

v.

SHARI'S MANAGEMENT CORPORATION, a
Delaware Corporation d/b/a SHARI'S
RESTAURANTS,

Defendant.

No.

PLAINTIFF'S COMPLAINT FOR
DAMAGES

JURY TRIAL REQUESTED

I. NATURE OF THE ACTION

1. Plaintiff Melissa Davis alleges that Defendant Shari's Management Corporation, d/b/a Shari's Restaurants, engaged in discriminatory and retaliatory conduct in violation of the Washington Law Against Discrimination, RCW 49.60 *et seq.* ("WLAD") and the Americans with Disabilities Act, 42 USC § 12101 *et seq.* ("ADA"), as amended by the ADA Amendments Act (ADAAA) of 2008. Specifically, Melissa Davis alleges that Defendant Shari's discriminated against her on the basis of her disability and/or perceived disability by subjecting her to a hostile work environment, failing to accommodate her disability, discriminatorily and retaliatorily demoting her, and ultimately discriminatorily and retaliatorily terminating her through constructive discharge. Accordingly, this is an action for declaratory judgment, equitable relief, and money damages, instituted to secure the protection of and to redress the deprivation of rights secured through the WLAD and the ADA. Plaintiff has filed charges and exhausted her administration remedies pursuant to the ADA.

II. JURISDICTION, VENUE, AND PARTIES

2. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1331 since Plaintiff alleges claims that comprise a federal question.

3. This Court has jurisdiction over Plaintiff's related state claims pursuant to 28 U.S.C. § 1367.

4. Venue of this Court is invoked under 28 U.S.C. § 1391.

5. Plaintiff Melissa Davis is a citizen of the State of Washington and a resident of the Western District of Washington.

6. At all relevant times, Defendant Shari's Management Corporation, d/b/a Shari's Restaurants, was a Delaware corporation registered in Washington State.

7. At all relevant times, Defendant had the requisite number of employees under the WLAD and the ADA and was an employer engaged in an industry affecting commerce.

1 8. At all relevant times, Defendant transacted business and maintained sufficient
2 contacts in the Western District of Washington, operating multiple restaurants within the
3 Western District of Washington.

4 9. At all relevant times, Plaintiff Davis was employed by Defendant at Shari's of
5 Totem Lake in Kirkland, Washington.

6 10. A substantial part of the events or omissions giving rise to Plaintiff's claims
7 occurred within the jurisdiction of the Federal District Court for the Western District of
8 Washington at Seattle.

9 11. Plaintiff has exhausted the administrative procedure set out in the relevant
10 federal statutes.

11 12. All jurisdictional prerequisites have been met.

12 **III. STATEMENT OF CLAIMS**

13 13. Defendant engaged in unlawful employment practices against Plaintiff while
14 she was employed by Defendant in violation of the WLAD and ADA.

15 14. Plaintiff Davis suffered from what constitutes a disability under the WLAD and
16 ADA (diabetes). Plaintiff Davis suffered from this disability during the course of her
17 employment with Defendant and continues to suffer from the same.

18 15. Plaintiff was qualified for her position and able to perform the essential
19 functions of the job with reasonable accommodation.

20 16. Defendant and its agents had both actual and constructive notice of Plaintiff's
21 disability, and perceived that she had a disability.

22 17. Defendant knew or had reason to believe that Plaintiff needed reasonable
23 accommodation.

24 18. Defendant discriminated against Plaintiff on the basis of her disability or the
25 perception that she had a disability, subjected her to a hostile work environment based on her
26 disability and/or perceived disability, and refused her requests for reasonable accommodation.

1 19. Plaintiff engaged in protected activity and suffered retaliation for opposing
2 Defendant's discrimination and/or for requesting reasonable accommodation.

3 20. Defendant failed to act to eliminate the discrimination, harassment, and
4 retaliation against Plaintiff, subjecting Plaintiff to adverse employment actions including
5 demoting her and ultimately constructively terminating her employment.

6 21. The effect of the practices complained of in the above paragraphs has been to
7 deprive Plaintiff of equal employment opportunities and otherwise adversely affect her status
8 as an employee because of Plaintiff's disability and/or opposition to Defendant's unlawful
9 activities.

10 22. The unlawful employment practices complained of in the above paragraphs
11 were intentional.

12 23. The unlawful employment practices complained of in the above paragraphs
13 were done with malice and/or with reckless indifference to Plaintiff's rights as protected by
14 state and federal laws.

15 24. As a result of Defendant's conduct, Plaintiff has suffered and continues to suffer
16 economic losses, mental anguish, pain and suffering, and other non-pecuniary losses.

17 **IV. PRAYER FOR RELIEF**

18 Wherefore, Plaintiff respectfully requests that this Court:

19 A. Grant a permanent injunction enjoining Defendant, its officers, successors,
20 agents, assigns, and all persons in active concert or participation with Defendant, from
21 engaging in any other employment practice which discriminates on the basis of disability,
22 retaliates on the basis of engaging in protected activity, or otherwise deprives employees of
23 rights available under the WLAD and ADA;

24 B. Order Defendant to institute and carry out policies, practices, and programs
25 which provide equal employment opportunities for all employees, and which eradicate the
26 effects of its past and present unlawful employment practices;

1 C. Order Defendant to make Plaintiff whole by providing appropriate back pay
2 with prejudgment interest, in amounts to be determined at trial, and other affirmative relief
3 necessary to eradicate the effects of its unlawful employment practices;

4 D. Order Defendant to make Plaintiff whole by providing compensation for past
5 and future pecuniary losses resulting from the unlawful employment practices described in the
6 above paragraphs, including out-of-pocket expenses, in an amount to be determined at trial,
7 including but not limited to damages provided for by RCW 49.48 *et. seq.*, and RCW 49.52 *et.*
8 *seq.*;

9 E. Order Defendant to make Plaintiff whole by providing compensation for past
10 and future non-pecuniary losses resulting from the unlawful practices complained of in the
11 above paragraphs, including without limitation, emotional pain, suffering, humiliation, distress,
12 and loss of enjoyment of life, in an amount to be determined at trial;

13 F. Order Defendant to pay punitive damages to the extent allowed by law;

14 G. Order Defendant to pay Plaintiff for any and all tax consequences associated
15 with the damages and cost award, including but not limited to attorney's fees;

16 H. Award Plaintiff the costs of this action, including attorney's fees, expert fees,
17 and all other costs to the fullest extent allowed by law;

18 I. Award pre-judgment interest and post-judgment interest; and

19 J. Grant any additional or further relief as provided by law, which this Court finds
20 appropriate, equitable, and/or just.

1 DATED this 26th day of September, 2013.

2 THE BLANKENSHIP LAW FIRM, P.S.

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